HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No.32855 OF 1997

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ORDER:

This Writ Petition is filed aggrieved by the order dated 2.9.1996 in proceedings L.Dis.No.1929/96/M9 passed by the Conservator of Forests, Visakhapatnam, rejecting the appeal preferred by the petitioner under the provisions of the A.P. Forest Act, 1967.

The petitioner is the owner of the lorry bearing registration No. TM.28Z.1989. On 2.2.1996, the said vehicle was seized by the Forest Range Officer, Kasibugga, Srikakulam District, on the ground that it was being used for transporting teak sawn sizes illegally. Pursuant to the seizure, proceedings were initiated for confiscation, but, however, on the ground that the petitioner agreed to compound the offence, order dated 21-2-1996 was passed compounding the offence, by collecting a sum of Rs.62,376/-, i.e. four times the value of the produce seized from the lorry.

As against the same, the petitioner preferred appeal before the appellate authority, i.e. Conservator of Forests, on 8.3.1996. But, however, the appellate authority without considering the appeal on merits, rejected the same by its order dated 2-9-1996 on the ground that the appeal was not preferred within the prescribed limitation period of fifteen days as provided under Rule 10 of the A.P. Forest Offences (Compounding & Prosecution) Rules, 1969. Aggrieved by the said order, this Writ Petition is filed.

It is the case of the petitioner, that the order dated 21-2-1996 passed by the primary authority, i.e. Divisional Forest Officer, was not received by him on 21-2-1996. As such, it is his case that the appeal was preferred within the prescribed period of limitation as per Rule 10 of the A.P. Forest Offences (Compounding & prosecution) Rules, 1969, from the date of receipt of the order.

I have perused the copy of grounds of appeal filed before the appellate authority. In the grounds of appeal filed before the appellate authority, it was categorically mentioned that the order of the appellate authority dated 21-2-1996 was received by the petitioner on 25-2-1996. Though it is stated in the counter affidavit, that the order was served on the petitioner on 21-2-1996 itself, but however, it is to be seen, the said order was communicated to his address in Salem District of Tamilnadu State and it was practically impossible to effect service of the said order on the petitioner on 21-2-1996. Added to the same, there is no proof also on record to show that the order dated 21-2-1996 was served on the petitioner on the same day itself. As per Rule 10(1) of the A.P. Forest Offences (Compounding & Prosecution) Rules, 1969, it is open for the aggrieved party to prefer appeal against the order passed under Rule 8 of the said Rules within a period of fifteen days from the date of receipt of the order. In the aforesaid circumstances, particularly in absence of any proof from the record that the order dated 21-2-1996 was served on the petitioner on the same day itself, it is evidently a fit case to set aside the impugned order dated 2-9-1996, by allowing the petitioner to pursue appeal on merits. Accordingly, order dated 2-9-1996 in proceedings L.Dis.No.1929/96/M9, passed by the Conservator of Forests, Visakhapatnam is set aside and the matter is remitted to the appellate authority, first respondent, for fresh disposal on merits. The first respondent is directed to dispose of the appeal preferred by the petitioner on 8-3-1996, without reference to the objection on limitation, within a period of three months from the date of receipt of this order, after issuing prior notice of hearing to all the parties concerned.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 25-04-2006.

Msnr